

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

RAJA KANNAN,
Plaintiff,
v.
APPLE INC.,
Defendant.

Case No. [17-cv-07305-EJD](#) (VKD)

**ORDER RE DISCOVERY DISPUTE RE
DEFENDANT'S DOCUMENT
REQUESTS**

Re: Dkt. No. 151

On September 25, 2019, the Court ordered plaintiff Raja Kannan to respond to several of defendant Apple Inc.'s document requests by October 1, 2019, including Requests Nos. 14, 15, 16, 18, 19, and 21. Dkt. No. 120 at 5. Apple contends that Mr. Kannan has not complied with this order.¹ Mr. Kannan responds that Apple seeks documents outside the scope of Apple's document requests, that some of the documents are not relevant, and that Mr. Kannan should not have to produce documents that are already in Apple's possession.²

Requests Nos. 14-16. Apple's Requests Nos. 14-16 seek documents about Mr. Kannan's and his family's move to India:

Request No. 14: All Documents and text messages discussing, referring to, or supporting Your decision to move to India, including but not limited to the dates You decided to move to India, during Your employment with Apple from August 29, 2011 through the present.

¹ Apple also asks for sanctions but has not filed a motion that complies with the Court's rules seeking that relief. Civ. L.R. 37-4.

² Mr. Kannan refers to disputes about Apple's privilege log and about Apple's responses to Mr. Kannan's document requests, but such disputes are not properly before the Court. Standing Order for Civil Cases at 3.

1 Request No. 15: All Documents and text messages discussing,
2 referring to, or supporting Your wife's decision to move to India,
3 during Your employment with Apple from August 29, 2011 through
4 the present.

5 Request No. 16: All Documents and text messages discussing,
6 referring to, or supporting any time Your spouse and son were
7 physically in India, whether permanently or temporar[ily], during
8 Your employment with Apple from August 29, 2011.

9 Dkt. No. 110, Ex. C. Mr. Kannan made several objections to these requests, including various
10 privilege objections. The Court ordered Mr. Kannan to complete his production of documents
11 responsive to these requests by October 1, 2019, with the exception of those documents as to
12 which he claims a privilege. Dkt. No. 120 at 5.

13 Mr. Kannan is correct that Requests Nos. 14 and 15 are limited to documents discussing,
14 referring to, or supporting Mr. Kannan's decision to move to India and his wife's decision to move
15 to India, and do not encompass all documents regarding Mr. Kannan's travel to India. Mr.
16 Kannan is also correct that Request No. 16 is limited to documents discussing, referring to, or
17 supporting the times Mr. Kannan's wife and son were in India, and does not encompass all travel
18 by Mr. Kannan to India. However, it appears that Mr. Kannan is withholding documents
19 responsive to these requests because he contends such documents are not relevant. *See* Dkt. No.
20 151 at 6. In particular, Mr. Kannan objects to producing documents reflecting Mr. Kannan's
21 wife's decision to move to India. Likewise, Mr. Kannan objects to producing documents
22 reflecting the times Mr. Kannan's wife and son were in India. *Id.* The Court has already
23 overruled those objections and will not revisit that decision. *See* Dkt. No. 120 at 5.

24 The Court orders Mr. Kannan to search for and produce documents responsive to Requests
25 Nos. 14-16, including the documents Mr. Kannan contends are irrelevant, by no later than
26 **October 28, 2019.** At this time, Mr. Kannan need not produce responsive documents for which
27 he has asserted a claim of privilege. Failure to complete this production will subject Mr. Kannan
28 and/or his counsel to sanctions, including monetary sanctions, under Rule 37(b) of the Federal
29 Rules of Civil Procedure.

Requests Nos. 18 and 19. Requests Nos. 18 and 19 seek documents concerning Mr.

1 Kannan's and his wife's development of software applications during Mr. Kannan's period of
2 employment with Apple. Mr. Kannan represented to the Court that he had already produced
3 documents reflecting his own development of software applications. Dkt. No. 110 at 7. The
4 Court concluded that Mr. Kannan need not produce any documents reflecting his wife's
5 development of software applications, but ordered that he must produce documents reflecting
6 software applications developed by any person using Mr. Kannan's Apple-issued computer
7 equipment. Dkt. No. 120 at 5. The parties dispute whether Mr. Kannan has complied with this
8 latter directive.

9 Mr. Kannan says that his wife did not use his Apple-issued computer to develop any
10 software applications, and that she only used Mr. Kannan's computer to back up copies of
11 software applications she developed separately. Dkt. No. 151 at 7. The Court previously
12 concluded that Mr. Kannan's wife's separate software development work is not relevant to any
13 claim or defense in the case. *See* Dkt. No. 120 at 5; Dkt. No. 128 at 153:24–154:17. However,
14 Apple argues that Mr. Kannan and his wife collaborated on software applications and that such
15 collaboration is relevant to Apple's defenses. The parties dispute whether Mr. Kannan has
16 produced a list of the files he claims reflect his wife's independent software development work
17 and whether those files must be produced. Specifically, Apple contends that Mr. Kannan has
18 produced a lengthy list of software application files that are responsive to its document requests,
19 while Mr. Kannan characterizes the same list as containing a large number of irrelevant personal
20 files. *Id.* at 3–4, 7.

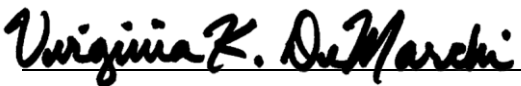
21 The Court orders Mr. Kannan to provide Apple with a list of files reflecting the software
22 applications developed exclusively by Mr. Kannan's wife by **October 25, 2019**. This list must not
23 include any other files. No later than **October 28, 2019**, Mr. Kannan must file a declaration under
24 penalty of perjury (1) specifically identifying the software applications he developed himself or
25 with any other person during the period of his employment with Apple, and (2) attesting to the
26 representation included in his portion of the joint submission that his wife did not use his Apple-
27 issued computer to develop any software applications, but rather used the computer only as
28 backup storage for those applications.

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Request No. 21. Request No. 21 asks Mr. Kannan to produce all documents concerning, reflecting, or relating to any application he submitted to another employer during his employment with Apple. Mr. Kannan represents that he has produced all responsive documents, and his counsel represents that she has personally participated in a search of Mr. Kannan’s emails for documents responsive to this request. Dkt. No. 151 at 6–7. Accepting Mr. Kannan’s and his counsel’s representations, the Court concludes that there is nothing further to order with respect to this request.

IT IS SO ORDERED.

Dated: October 22, 2019


VIRGINIA K. DEMARCHI
United States Magistrate Judge